16: Müller--235-236 U-3 (no date) 1910 Formosan Aborigines
116, 671, 673, 681

The concept of crime is not unknown among the natives. They judge misdemeanors according to ancient traditions; action is considered a moral offense if it is not in accordance with the principles held by the community as a whole. There is no written law; the punishment for each crime is [236] considered individually. No form of punishment, however, may exceed a certain degree of severity. Sometimes the offender may pay a fine to take the place of the punishment designated.

18: Kakyo--70 [5] E-2 (no date) 1899 Formosan Aborigines
116, 671

In general, the criterion for the crime concept among Formosan savages is the following:

a) They treat as crimes all actions that must be looked on as such according to tradition and custom.

b) But to constitute a crime, the action nevertheless must conflict with the moral notions shared by everyone among them.

The principles adopted with regard to a crime are as follows:

1. The crime must be punished.
2. In some circumstances, the punishment can be transformed into retribution.

18: Kakyo--71 E-2 (no date) 1899 Formosan Aborigines
116, 671

The following may be said about the methods of punishment:

1. There is no fixed penal code. The punishment is determined according to the circumstances of the case.

2. The degree of punishment is fixed by tradition and custom, and the punishment should not exceed these limits.

22: Wiedfeldt--40 [2] F-5 (1913) 1914 Formosan Aborigines
116, 183, 626, 671 Atayal

There is no Atayal system of laws, in the modern sense of the word, for the fall of man in the development of laws, as Savigny calls the codification of legal usages, has not yet made its appearance in these tribes which can not write. For all that, they do not act with complete freedom of the will in their legal paradise, but move in the fixed grooves of traditional and generally observed rules which govern their relations with each other, not merely in the case of infractions of the legal usage, but in their community life as a whole.

22: Wiedfeldt--42 [2] F-5 (1913) 1914 Formosan Aborigines
116, 304, 671, 851 Atayal

The Atayals also possess the most important institutions of civil law. ... The mere fact of birth is a matter of indifference before the law. Only when the child receives a name, that is, when it is about three years old, does it begin to enjoy some consideration before the law. On the other hand, the capacity to carry on business is indicated by the outward sign of tattooing, instead of by age.

22: Wiedfeldt--44-45 F-5 (1913) 1914 Formosan Aborigines
116, 643, 671, 692 Atayal

Finally, some traces of formal legal procedure may also be detected, although there is no training in the law nor even a special legal profession as such. In cases of civil law, the chief of the tribe is not really the authority who has the deciding word on the legal aspect of the case. He merely collects the evidence, and from the results of this, the decision is clear to everyone, and the deductions to be made are self-evident, for everyone is well acquainted with the legal usages. In criminal law, the chief of the tribe has considerably more power, because the community has a real interest in not permitting a crime, for example, adultery, to go unpunished through the complaisance of the husband. Nor do they wish the murder of a child to go unavenged by the head of a family, because the murderer was a more powerful neighbor, and they are anxious to prevent the irascible victim of a thief from taking the law into his own hands and thus committing a new and unjustifiable crime. As representatives of the community in such cases the two most highly respected [45] men are naturally called to serve. At the same time, if it is necessary, they pass on the possibility of carrying out the sentence. Their jurisdiction is simply and clearly limited according to whether members of the same clan, or members of different clans are involved in the case. Where there is no such spokesman, there is no course of law, so that among the Atayals all of their legal activity has continued to be limited to the individual tribe.

22: Wiedfeldt--45 [2] F-5 (1913) 1914 Formosan Aborigines
116, 614, 671, 681, 696 Atayal

The execution of the decision arrived at [MC: in criminal cases] is simple. The clan always bows to the decision in the presence of the chief of the tribe; an individual family, or a single individual almost always does so. If necessary, the clan uses force, or debars a disobedient member from the clan. The injured clan always receives the fine which is due it, even though the clan which is obligated to pay can not always get it from the guilty member, which after all does not mean very much in view of the solidarity of the members of the clan. Thus, the Atayals have a well developed system of criminal law, they possess the most important basic institutions of civil law, and they have orderly legal procedure.